

IN THE INDIANA COURT OF APPEALS
Appellate Case No. 43A03-1610-MI-02332

EPWORTH FOREST ADMINISTRATION)
COMMITTEE, INC.)
Appellant/Defendant below,) Appeal from the Kosciusko Circuit Court
v.)
Trial Court Case No.: 43C01-1602-MI-47
GERRY LEE POWELL and)
PATRICIA ANN POWELL and)
Appellee/Plaintiffs below,)
And) The Honorable Michael W. Reed, Judge
ROBERT MILLER and DEBORAH MILLER)
Appellee/Defendants below)

**VERIFIED MOTION FOR THIRTY (30) DAY EXTENSION OF TIME
TO FILE APPELLEES' BRIEF**

John B. Powell, attorney for Appellee Robert Miller and Deborah Miller, being first duly sworn upon his oath, respectfully moves this Court for a thirty (30) day extension of time in which to file Appellees' Brief pursuant to Indiana Rule of Appellate Procedure 35. In support of this Motion, the following is shown to the Court:

1. Final Judgment was entered against Appellant in this civil action on September 9, 2016. No motion to correct error was required or filed, and on October 7, 2016, Appellant Epworth Forest Administration Committee, Inc. ("EFAC") timely filed its Notice of Appeal with the trial court. Appellee/Defendants, Robert J. Miller and Deborah Miller ("the Millers") filed their Notice to Appeal on October 10, 2016. On October 21, 2016, the Clerk of the Court filed the required Notice of Completion of Clerk's Record. On November 9, 2016, the Court Reporter filed a Verified Motion for Extension of Time to File Transcript requesting up to December 21, 2016, to file the transcript. This Court granted the Court Reporter's Motion in part and ordered

the Court Reporter to file the transcript by December 13, 2016. On December 13, 2016, the Clerk of the Kosciusko Circuit and Superior Court filed her Notice of Completion of Transcript, and served all parties. Counsel for EFAC requested and received an extension of time up to and including February 13, 2017 in which to file Appellant's Brief. EFAC's Brief was filed on February 13, 2007.

2. Pursuant to Indiana Appellate Rule 45.B.(2), the Millers' Appellees' Brief is due on or before March 15, 2017. The Millers have not sought any prior extensions of time and this Verified Motion is being filed at least seven (7) calendar days before the Millers' Appellees' Brief is due.

3. Counsel for the Millers is requesting an extension of time due to his engagement in other litigation as a part-time deputy prosecuting attorney for Allen County, specifically as trial counsel for the State of Indiana in two (2) cases: (A) State v. Jason B. Townsend, Allen Superior Court Case No. 02D06-1609-CM-003775, which is scheduled for trial on March 16, 2017; and (B) State v. Richard L. Morgan, Allen Superior Court Case No. 02D06-1609-CM-003821, which is scheduled for trial on March 23, 2017. Both defense counsel in these two (2) cases have stated their clients intend to take their cases to trial.

4. In spite of the exercise of due diligence, due to the preparation for trial associated with the cases referenced above, there is not sufficient time for counsel for the Millers to complete their Appellees' Brief and the Millers respectfully request a thirty (30) day extension, or up to and including April 14, 2017, which should be sufficient for the completion and filing of their Appellees' Brief.


5. Counsel for the Millers contacted counsel for EFAC and he has no objection to this Motion for Extension.

6. This Verified Motion for Extension of Time is made in good faith and not for purposes of delay.

WHEREFORE, John B. Powell, attorney for Appellees Robert Miller and Deborah Miller, respectfully requests a thirty (30) day extension of time to file their Appellees' Brief or up to and including April 14, 2017.

Respectfully submitted,

SHAMBAUGH, KAST, BECK & WILLIAMS LLP

By: 
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Attorney for Appellees, Robert Miller
and Deborah Miller

I affirm, under the penalties for perjury, that the above and foregoing representations are true and correct.


John B. Powell

CERTIFICATE OF SERVICE

I certify that on the 3rd day of March, 2017, I electronically filed the foregoing document using the Indiana E-Filing System. I also certify that on the 3rd day of March, 2017, the foregoing document was served upon the following person(s) via IEFS:

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